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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,061	01/20/2004	Maurice Blanchette	16231-IUS SC/sm	6678
20988 7590 03/09/2007 OGILVY RENAULT LLP 1981 MCGILL COLLEGE AVENUE SUITE 1600 MONTREAL, QC H3A2Y3 CANADA			EXAMINER GABLER, PHILIP FRANCIS	
			ART UNIT 3637	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/09/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/759,061	Applicant(s) BLANCHETTE, MAURICE	
	Examiner Philip Gabler	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5-7 and 9-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5-7 and 9-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the second connecting tab folded at 90 degrees of claim 5 must be shown or the features canceled from the claims. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claim 1 is objected to because of the following informalities: the word "column" on line fourteen of the claim should be "columns." Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear if the first and second sides of the columns are the same as the first and second sides recited in claim 1 or are new and separate limitations. The claim is accordingly deemed indefinite.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 3, 5-7, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mattick (US Patent Number 3420484) in view of Shelton (US Patent Number 2238348), Marschak (US Patent Number 3749343), and Bowman (US Patent Number 3754728). Mattick (Figures 1-3 and 5) discloses a platform assembly (T,

Art Unit: 3637

Mattick's Figure 1) comprising a weldless frame (components S and L) including at least three side profiles (S) bolted together so as to define a part of a floor, said at least three side profiles each include a folded sheet forming a beam member (S) of C-shaped cross-section, a support column (L) at each corner of said frame, said support column being bolted to said weldless frame, each of said corners being formed by one of said support columns and two of said side profiles (at least in as much as Applicant's) extending laterally away therefrom and connected directly thereto (the ends of the side profiles are attached directly to the support columns), said two side profiles having an intermediate web portion (10), and top (11) and bottom (12) flanges folded at about 90 degrees from said intermediate web portion, said bottom flange having a terminal edge portion folded about 90 degrees, each of said columns having first and second sides (a side 3 and side 4 respectively) extending away from the corners, wherein at each corner, a first one of said side profiles has a first connecting tab (16) extending over a face of both the first and second sides of an associated one of the support columns and a second one of said side profiles having a second connecting tab (16) extending over the first connecting tab of the first side profile and the face of the second side of the associated one of the support columns (the connecting tabs extend over a respective side 3 and both extend over side 4 of the column), wherein a bolt (28) extends through the first and second connecting tabs of the side profiles and through the second side of the associated one of the support columns. Mattick does not disclose top and bottom terminal edge portions folded inwardly, a guard rail, or a specific material for construction, but does disclose the use of metal. Mattick also discloses connecting tabs

Art Unit: 3637

extending over faces that may not be considered outer faces. Note that the claim recites a product by process limitation ("cold-formed"). The product itself does not depend on the process of making it and this limitation would not be expected to impart distinctive structural characteristics to the device. The use of various flange arrangements for side members is well known in the art as shown by Marschak, who (Figure 3) discloses a shelf/table having a side profile with an intermediate web portion and top and bottom flanges folded at about 90 degrees from said intermediate web portion, said top and bottom flanges having respective terminal edge portions folded inwardly towards one another at about 90 degrees to said top and bottom flanges.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include top and bottom terminal edge portions folded inwardly on Mattick's side profiles, as taught by Marschak, as determined by the needs or desires of a user or to provide a stronger, more substantial side profile design. Shelton discloses (Figures 1 and 7) a guard rail projecting upwardly from a portion of a surface (10).

Further, the use of steel sheet is well known in the art. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Mattick's platform to include a guard rail assembly as taught by Shelton because this would keep objects from falling from the platform (see Shelton column 1 lines 50-51), as well as using steel in the construction of the assembly because of its low cost and high strength. Mattick's table, modified as described above, would be capable of providing a safe area for any person standing on the floor of the platform assembly. Bowman (Figures 2 and 3) discloses a platform with side profiles (11) having connecting tabs

Art Unit: 3637

(17) extending over an outer face of a support column (10). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Mattick's platform to mount the connecting tabs on an outside face of the support columns as taught by Bowman based on the needs and desires of a user for ease of assembly, as well as the ability to construct different shapes of frame structure.

7. Regarding claim 3, Mattick further discloses an open side of said side profiles faces inwardly of said weldless frame.

8. Regarding claim 5, Mattick further discloses first and second connecting tabs that are folded at 90 degrees (indicated by A in Exhibit 1).

9. Regarding claim 6, Mattick further discloses support columns (L) with two open sides (opposite of sides 3).

10. Regarding claim 7, Mattick further discloses that the open sides face inwardly of said weldless frame (see Figure 2), and wherein each of the cold-formed support columns has a first upstanding portion (edge of a member 3) extending along a first side of the frame, a second upstanding portion (other member 3) extending along a second side of the frame, said first and second upstanding portions being provided with respective inwardly bent flanges (6) defining said two open sides therebetween.

11. Regarding claim 9, Mattick further discloses a corner brace (G) at each corner of said frame, each brace being bolted to adjacent profiles extending from the corner.

12. Regarding claim 10, Mattick, when modified as described above, discloses a number of guard rail posts (Shelton's 24), said guard rail post being made from C-shaped profiles. Note that this claim recites a product by process limitation ("cut and

Art Unit: 3637

folded"). The product itself does not depend on the process of making it and this limitation would not be expected to impart distinctive structural characteristics to the device.

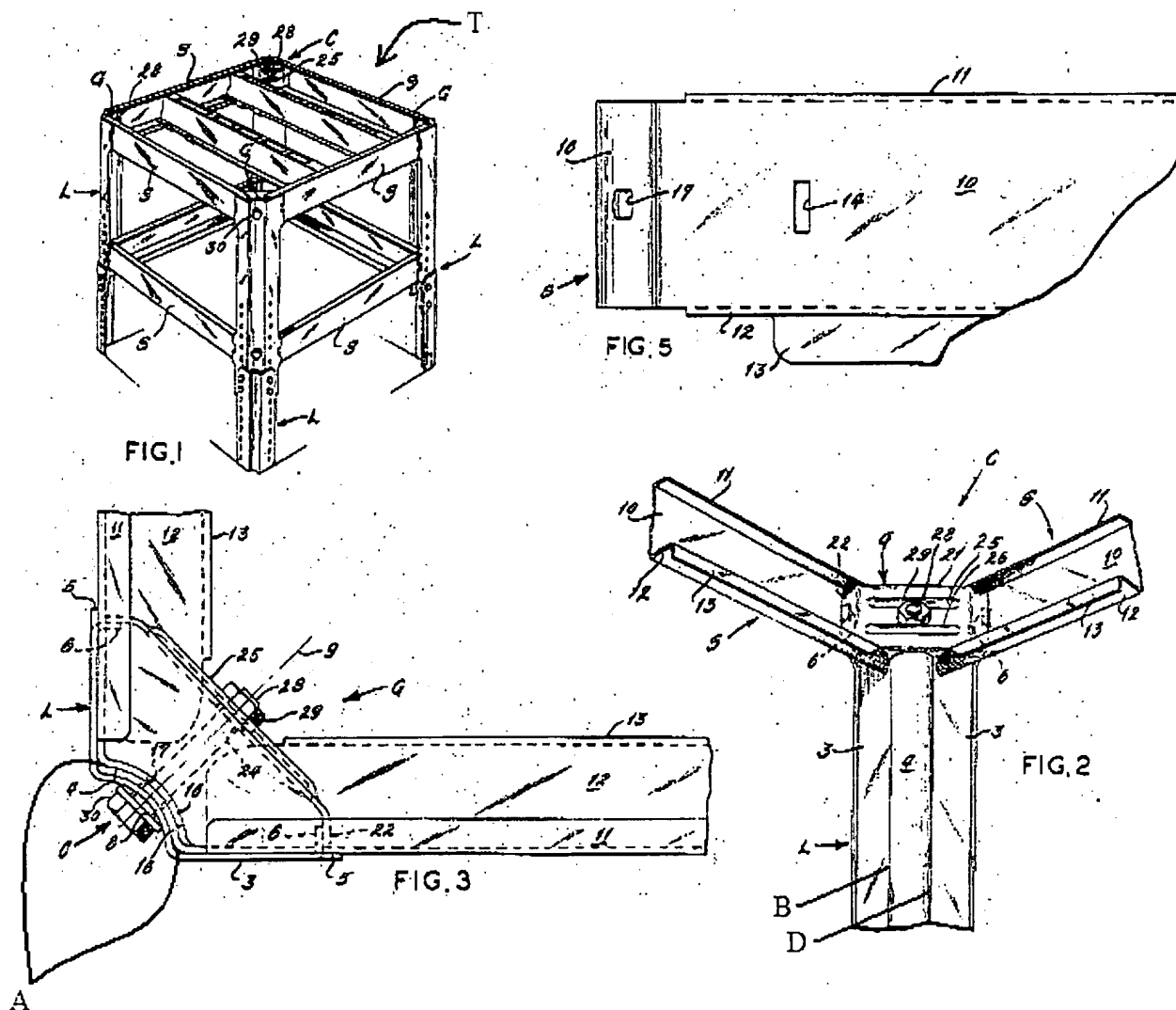
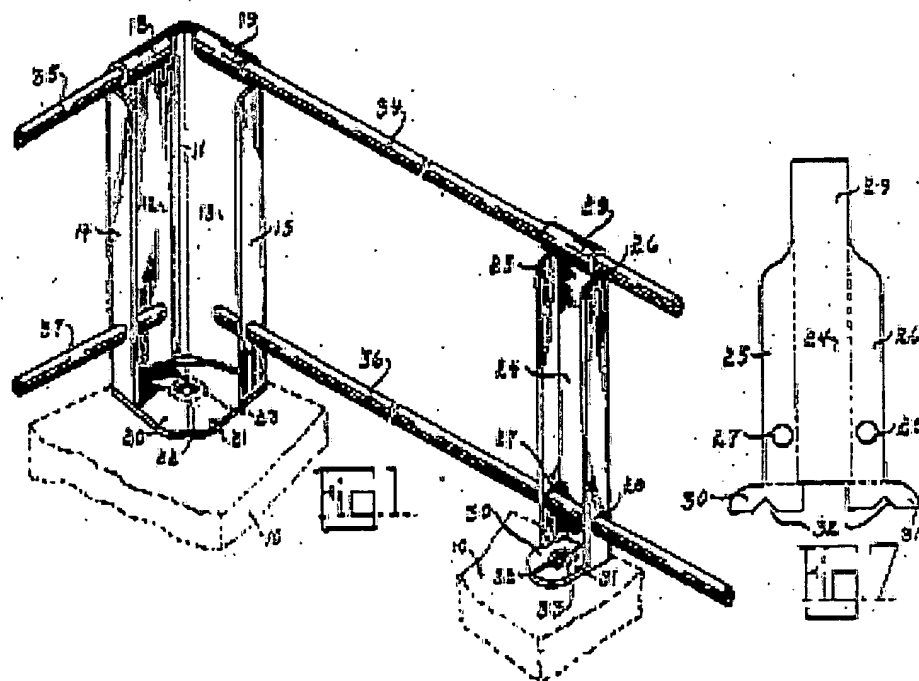
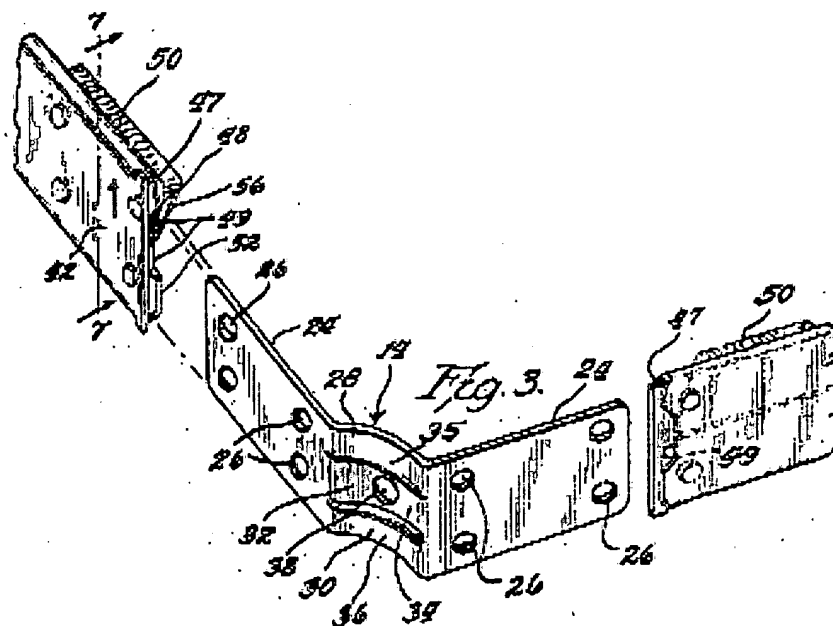


Exhibit 1: Mattick '484 Figures 1-3 and 5

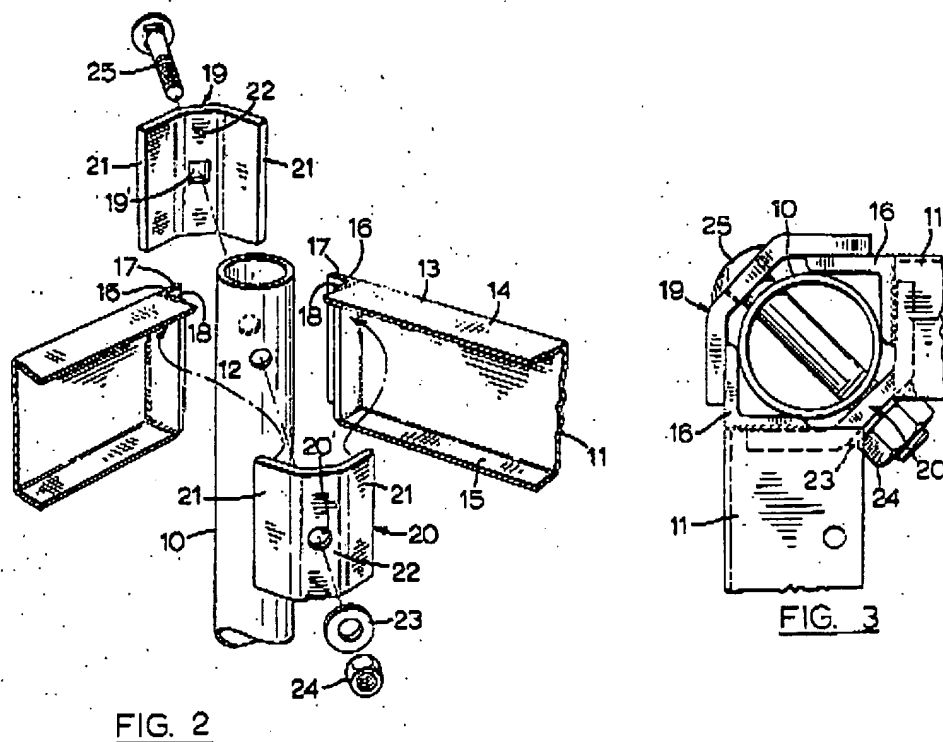
Art Unit: 3637



Shelton '348 Figures 1 and 7



Marschak '343 Figure 3



Bowman '728 Figures 2 and 3

13. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mattick in view of Shelton, Marschak, and Bowman, and further in view of Diamond (US Patent Number 2733897). Mattick, when modified by Shelton, Marschak, and Bowman as described above, discloses a platform as recited in claim 10 but does not disclose a hole extending through fold lines defining a receiving cavity. Diamond (Figures 2 and 4) discloses a guard rail post having two parallel longitudinal folds (viewed as A in Exhibit 2) and wherein an oblong hole (20) extends transversely through said folds to define a rail receiving cavity on a back side of the post. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Mattick's

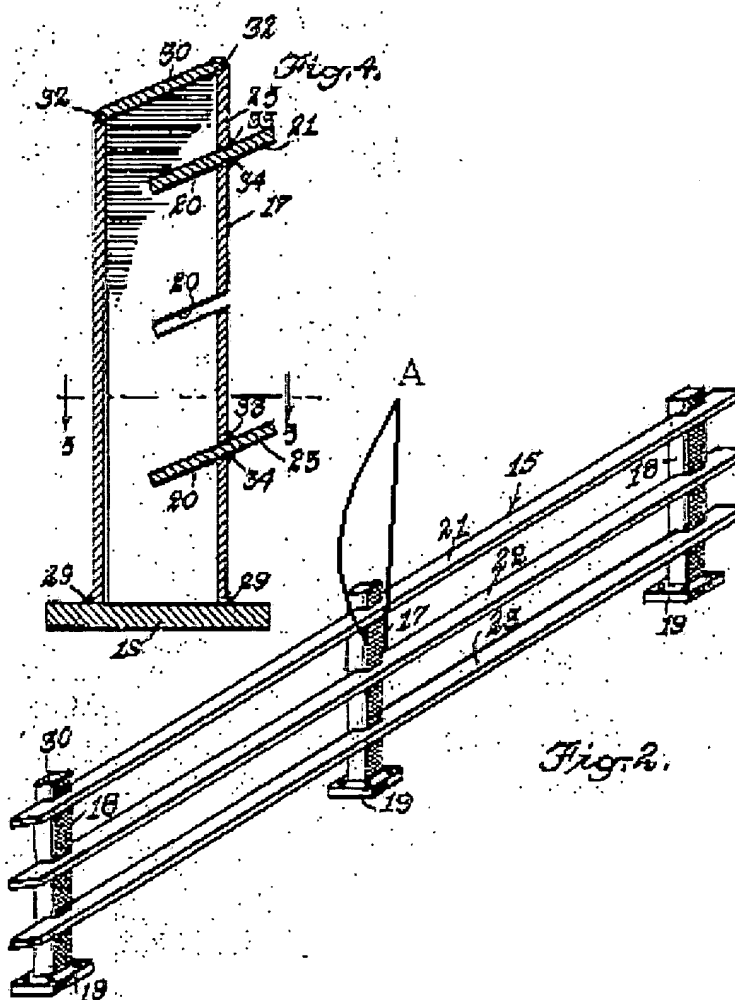
Art Unit: 3637

platform, previously modified by Shelton, Marschak, and Bowman, to include an oblong hole through the post (by simply connecting Shelton's holes 27 and 28) to receive a rail as taught by Diamond because this arrangement would provide a simpler method of mounting rails to the guard rail post.

14. Regarding claim 12, Shelton further discloses a solid tubular rail (36) mounted in his receiving cavity. Note that this claim recites a product by process limitation ("welded"). The product itself does not depend on the process of making it and this limitation would not be expected to impart distinctive structural characteristics to the device.

15. Regarding claim 13, Shelton further discloses a depression (29) defined at the top end of the guard rail post extending across said folds so as to define a seat for receiving a hand rail.

Art Unit: 3637



Diamond '897 Figures 2 and 4

Response to Arguments

16. Applicant's arguments, see remarks, filed 16 January 2007, with respect to the 35 USC 112 rejections have been fully considered and are persuasive. The 35 USC 112 rejections of 1, 3-7, and 9-13 have been withdrawn. Note that new 35 USC 112 rejections have been presented in this Office Action.

17. The remainder of Applicant's arguments with respect to the claims have been considered but are moot in view of the new grounds of rejection.

Conclusion

18. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

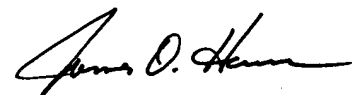
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Gabler whose telephone number is (571) 272-6038. The examiner can normally be reached on Monday through Friday, 8:30 AM to 5:00 PM.

Art Unit: 3637

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PFG 
3/1/2007



JAMES O. HANSEN
PRIMARY EXAMINER